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SENATE

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REPORT
No. 1537

WILLIAM Y. ALLEN, JR., ET AL.

JUNE 8, 1960.—Ordered to be printed

Mr. EASTLAND, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany S. 3105]

The Committee on the Judiciary, to which was referred the bill (S. 3105) for the relief of William Y. Allen, Jr., having considered the same, reports favorably thereon with amendments and recommends that the bill, as amended, do pass.

AMENDMENTS

Strike all after the enacting clause and insert in lieu thereof the following:

That the Secretary of the Navy is authorized and directed to pay, out of current appropriations available for the payment of severance pay, to William Y. Allen, Junior, Donald Baldwin Quintero, Johann Friedrich Stapelfeld, and Kenneth Gordon Woods, who were discharged from the United States Navy on June 30, 1959, amounts equal to the difference between (a) the amount of severance pay which would have been paid to them upon their discharge from the United States Navy if the computation of such severance pay had been based upon their actual commissioned service in the United States Navy, and (b) the amount of severance pay actually paid to them.

Amend the title so as to read:

For the relief of William Y. Allen, Junior, Donald Baldwin Quintero, Johann Friedrich Stapelfeld, and Kenneth Gordon Woods.

PURPOSE OF AMENDMENTS

The purpose of the amendment is to carry out the recommendation of the Department of the Navy with respect to this legislation.

PURPOSE

The purpose of the proposed legislation, as amended, is to direct the Secretary of the Navy to pay, out of current appropriations available for the payment of severance pay, to William Y. Allen, Jr., Donald Baldwin Quintero, Johann Friedrich Stapelfeld, and Kenneth Gordon Woods, who were discharged from the Navy on June 30, 1959, amounts equal to the difference between the severance pay which they received at the time of their discharge and the severance pay which they would have received if the computation of their pay had been based upon their actual commissioned service.

STATEMENT

The facts surrounding these claims are contained in the Department of the Navy report to the Senate Judiciary Committee, and are as follows:

Mr. Allen was appointed as an ensign in the line of the Naval Reserve on July 5, 1945. On September 18, 1946, he accepted an appointment as an ensign in the line of the Regular Navy. After slightly more than 4 years of service as a line officer, he was appointed, on July 28, 1949, as a lieutenant (junior grade) in the Supply Corps. He failed twice of selection to the grade of lieutenant commander and was therefore discharged from the Navy on June 30, 1959, as required by section 6382 of title 10, United States Code. In accordance with that section he was paid a lump-sum severance payment computed on the basis of 2 months' basic pay multiplied by the number of his years of "total commissioned service" as computed under section 6388 of title 10.

Under section 6388 of title 10, United States Code, the "total commissioned service" of a staff corps officer is considered to begin on June 30 of the fiscal year in which he was appointed in the staff corps. Prior line service is not counted. Thus Mr. Allen was paid a severance payment equal to 18 months' basic pay (2 months' basic pay multiplied by his 9 years of service in the Supply Corps subsequent to June 30, 1950), whereas, if all of his service had been in the line, or if all of it had been in the Supply Corps, he would have received 24 months' basic pay, the maximum severance payment authorized by law.

In addition to Mr. Allen three other staff corps officers who served in the line before transfer to a staff corps were discharged from the Navy on June 30, 1959. Each of these officers received a severance payment equal to 22 months' basic pay, whereas each would have received 24 months' basic pay if his line service could have been included in the computation. These officers are: Donald Baldwin Quintero, Supply Corps; Johann Friedrich Stapelfeld, Civil Engineer Corps; Kenneth Gordon Woods, Civil Engineer Corps.

The Department of the Navy strongly recommends enactment of S. 3105, provided it is amended to include the three former officers named above.

The proposed corrective legislation, to amend title 10, United States Code, concerning the definition of total commissioned service of officers of the naval service, was submitted to the Congress by the Deputy Secretary of Defense on February 11, 1960. It contains a retroactive provision to cover the four former officers mentioned in this report and any others that may be discharged with an inequitable severance payment before the enactment of the proposed legislation.

Private Law 86-28, approved June 23, 1959, provided similar relief for Patrick W. Gowan, David Dooling, Harlie L. Mize, James H. Blaes, and William L. Perkins, who were discharged from the Navy in 1957 and 1958. In a report to you dated March 3, 1959, urging the enactment of a bill for the relief of these individuals, the Department of the Navy stated that corrective legislation would be proposed, so that officers discharged in the future might compute their total commissioned service and their severance pay on an equitable basis.

Inasmuch as no action has been taken on the proposed general legislation, the Department of the Navy favors the enactment of a private law for the relief of Messrs. Allen, Quintero, Stapelfeld, and Woods.

The committee has carefully considered all of the matter contained in the Navy report and concurs in the conclusions reached by that Department. It is, therefore, recommended that S. 3105, as amended, be considered favorably.

Attached hereto and made a part hereof is the report submitted by the Department of the Navy on S. 3105.

DEPARTMENT OF THE NAVY,
OFFICE OF THE SECRETARY,
OFFICE OF LEGISLATIVE LIAISON,
Washington, D.C.

Hon. JAMES O. EASTLAND,
Chairman, Committee on the Judiciary,
U.S. Senate, Washington, D.C.

MY DEAR MR. CHAIRMAN: Reference is made to your letter dated March 3, 1960, to the Secretary of the Navy, requesting a report on S. 3105, a bill for the relief of William Y. Allen, Jr.

The bill would direct the Secretary of the Navy to pay to William Y. Allen, Jr., who was discharged from the Navy on June 30, 1959, an amount equal to the difference between the severance pay that he received at the time of his discharge and the severance pay that he would have received if the computation of that pay had been based on his actual commissioned service.

Mr. Allen was appointed as an ensign in the line of the Naval Reserve on July 5, 1945. On September 18, 1946, he accepted an appointment as an ensign in the line of the Regular Navy. After slightly more than 4 years of service as a line officer, he was appointed, on July 28, 1949, as a lieutenant (junior grade) in the Supply Corps. He failed twice of selection to the grade of lieutenant commander and was therefore discharged from the Navy on June 30, 1959, as

required by section 6382 of title 10, United States Code. In accordance with that section he was paid a lump-sum severance payment computed on the basis of 2 months' basic pay multiplied by the number of his years of "total commissioned service" as computed under section 6388 of title 10.

Under section 6388 of title 10, United States Code, the "total commissioned service" of a staff corps officer is considered to begin on June 30 of the fiscal year in which he was appointed in the staff corps. Prior line service is not counted. Thus Mr. Allen was paid a severance payment equal to 18 months' basic pay (2 months' basic pay multiplied by his 9 years of service in the Supply Corps subsequent to June 30, 1950), whereas, if all of his service had been in the line, or if all of it had been in the Supply Corps, he would have received 24 months' basic pay, the maximum severance payment authorized by law.

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The Department of the Navy strongly recommends enactment of S. 3105, provided it is amended to include the three former officers named above.

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The proposed corrective legislation, to amend title 10, United States Code, concerning the definition of total commissioned service of officers of the naval service, was submitted to the Congress by the Deputy Secretary of Defense on February 11, 1960. It contains a retroactive provision to cover the four former officers mentioned in this report and any others that may be discharged with an inequitable severance payment before the enactment of the proposed legislation.

Inasmuch as no action has been taken on the proposed general legislation, the Department of the Navy favors the enactment of a private law for the relief of Messrs. Allen, Quintero, Stapelfeld, and Woods.

The Department of the Navy has been advised by the Bureau of the Budget that there is no objection to the submission of this report on S. 3105 to the Congress.

Sincerely yours,

T. P. SMITH, JR.
Captain, U.S. Navy,
Deputy Chief, Acting
(For the Secretary of the Navy).

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